

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No. 2:23-cv-00173
)	Judge Jon D. Levy
v.)	
)	
CHRISTOPHER A. SHELTON, <i>et al.</i> ;)	
)	
<u>Defendants.</u>)	

STIPULATION REGARDING PRIORITY OF LIENHOLDER PARTIES

Plaintiff United States of America, Defendant Deutsche Bank National Trust Company as Trustee for Soundview Home Loan Trust 2007-1 Asset Backed Certificates Series 2007-1 (“DBNTC”), Defendant Real Time Resolutions, Inc. (“RTR”), Defendant Maine Revenue Service, Defendants William Swartzbaugh, Jeffrey Harder, and Quang Nguyen, and Defendant Town of Yarmouth, Department of Finance stipulate and agree as set forth below (and request that the Court so order this stipulation. The Sheltons have not responded to an inquiry as to whether they will object and, in any event, this stipulation is not intended to preclude any claims or defenses they may be otherwise entitled to raise. A proposed order is submitted herewith. The terms are:

1. The United States brought this action to enforce its federal tax liens through a judicial sale of the real property located at 314 Cousins Street, Yarmouth, Maine (“the Property”).
2. The United States and DBNTC previously entered into a priority stipulation which the Court entered as an order on December 27, 2023, ECF No. 59. This stipulation is consistent with that previous stipulation and subsequent order.

3. On November 24, 2023, the United States filed a Motion for Judgment on the Pleadings. ECF No. 53. This motion is primarily against Defendants Christopher and Joanna Shelton and not intended to resolve priority of liens. This motion is now fully briefed.

4. On January 16, 2024, the United States filed a motion to amend the Court's scheduling order to reopen discovery and extend the dispositive motion deadline for the purpose of determining RTR's claim to and priority as to the second mortgage to the Property. ECF No. 65. The parties have reached an agreement as to the priority of RTR's claim in the second mortgage.¹ If the Court accepts this priority stipulation, the parties agree that the United States' motion to amend the Court's scheduling order is moot.

5. In the event the United States prevails in its motion for judgment on the pleadings against the Sheltons, or in a subsequent motion for summary judgment or at trial, and the Court orders that the federal tax liens shall be enforced through a judicial sale of the Property (including by a court-appointed receiver if requested by the United States), then the above-named parties agree that the sale proceeds shall be distributed as follows:

- a. First, costs of the sale, including any expenses incurred to secure, maintain, and market the Property;
- b. Second, payment of any real property taxes and/or special assessments due and owing with regard to the Property;
- c. Third, payment of the entire outstanding balance due on DBNTC's primary mortgage;

¹ Defendant Maine Revenue Service agrees to this agreement regarding RTR's stipulation only within this case, *United States v. Shelton*, et al, 23-cv-00173, and reserves its right to challenge RTR's priority in other cases concerning this Property if it is not sold pursuant to the orders of this Court in this case.

- d. Fourth, payment of \$110,000 to RTR toward its second mortgage (subject to adjustment in paragraph 6 below);
- e. Fifth, payment of \$16,666.10 to Defendants William Swartzbaugh, Jeffrey Harder, and Quang Nguyen for their interest in a judgment lien, plus 6.27% interest from October 5, 2015, until the date of sale of the property;²
- f. Sixth, payment to the United States for the income tax liabilities assessed on May 13, 2013, November 18, 2013, July 14, 2014, and November 17, 2014, for tax years 2011, 2012, 2010, and 2013 respectively, totaling \$197,265.65 as of January 16, 2023, plus statutory interest thereafter pursuant to 26 U.S.C. §§ 6601, 6622, and 28 U.S.C. § 1961(c);
- g. Seventh, payment to Maine Revenue Service for the tax liability assessed on October 20, 2015, for tax year 2014, totaling \$7,493.82 as of May 15, 2024, plus interest accruing from that date at the rate determined by Maine law;
- h. Eighth, payment to the United States for the income tax liabilities assessed on November 23, 2015, and August 15, 2016, for tax years 2014 and 2015 respectively, totaling \$118,606.21 as of January 16, 2023, plus statutory interest thereafter pursuant to 26 U.S.C. §§ 6601, 6622, and 28 U.S.C. § 1961(c);
- i. Ninth, payment to Maine Revenue Service for the tax liabilities assessed on July 19, 2019, and October 15, 2019, for tax years 2016 and 2018

² This amount accounts for the 3.25% prejudgment interest that accrued between May 7, 2015, and October 5, 2015.

respectively, totaling \$33,502.44 as of May 15, 2024, plus interest accruing from that date at the rate determined by Maine law;

- j. Tenth, payment to the United States for the income tax liability assessed on November 18, 2019, for tax year 2018, totaling \$49,184.80 as of January 16, 2023, plus statutory interest pursuant to 26 U.S.C. §§ 6601, 6622, and 28 U.S.C. § 1961(c);
- k. Eleventh, payment to Maine Revenue Service for the tax liabilities assessed on July 15, 2020, and October 8, 2020, for tax years 2017 and 2019 respectively, totaling \$41,507.63 as of May 15, 2024, plus interest accruing from that date at the rate determined by Maine law;
- l. Twelfth, payment to the United States for the income tax liabilities assessed on November 16, 2020, and June 21, 2021, for tax years 2019 and 2017 respectively, totaling \$107,282.86 as of January 16, 2023, plus statutory interest pursuant to 26 U.S.C. §§ 6601, 6622, and 28 U.S.C. § 1961(c);
- m. Thirteenth, payment to Maine Revenue Service for the tax liability assessed on October 16, 2021, for tax year 2020, totaling \$3,030.75 as of May 15, 2024, plus interest accruing from that date at the rate determined by Maine law;
- n. Fourteenth, payment to the United States for the income tax liabilities assessed on November 29, 2021, and May 2, 2022, for tax years 2020 and 2016 respectively, totaling \$53,607.70 as of January 16, 2023, plus statutory interest pursuant to 26 U.S.C. §§ 6601, 6622, and 28 U.S.C. § 1961(c);

- o. Fifteenth, payment to Maine Revenue Service for the tax liability assessed on October 18, 2022, for tax year 2021, totaling \$25,795.52 as of May 15, 2024, plus interest accruing from that date at the rate determined by Maine law;
- p. Sixteenth, payment to the United States for the income tax liabilities assessed on November 21, 2022, for tax year 2021, totaling \$36,868.66 as of January 16, 2023, plus statutory interest pursuant to 26 U.S.C. §§ 6601, 6622, and 28 U.S.C. § 1961(c);
- q. Seventeenth, payment to RTR for the outstanding balance on RTR's claim in the second mortgage after crediting the amount received under paragraph 5(d) above;
- r. Eighteenth, any remaining proceeds should be distributed to Christopher Shelton.

6. In the event the Property sells after October 15, 2024, the amount payable to RTR described in paragraph 5(d) should be increased from \$110,000 to \$115,000.

7. This stipulation is being signed using conformed signatures in italics below upon email confirmation from each lienholder party to counsel for United States confirming agreement with the above stipulation.

For Plaintiff United States of America,

/s/ Lee Seitz

LEE SEITZ

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Home Loan Trust 2007-1 Asset Backed
Certificates Series 2007-1*

/s/ Brett Messinger

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Defendant Quang Nguyen, pro se,

/s/ Quang Nguyen

Quang Nguyen
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Westbrook, ME 04092

Defendant Jeffrey Harder, pro se,

/s/ Jeffrey Harder

Jeffrey Harder
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Falmouth, ME 04105

For Defendant Town of Yarmouth,
Department of Finance,

/s/ Zack Brandwein

Zack Brandwein
Counsel for Town of Yarmouth

CERTIFICATE OF SERVICE

I hereby certify that on February 28, 2024, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system and will further cause the document to be mailed by United States Postal Service to the following addresses on the same day:

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Yarmouth, ME 04096

Joanna Shelton
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5 Oakland Road
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/s/ Lee Seitz
LEE SEITZ
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